

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DAVID M. TROTMAN,

Plaintiff,

-against-

WARDEN OF DOC NYC,

Defendants.

24-CV-8455 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff filed this complaint in the United States District Court for the Eastern District of New York. By order dated September 3, 2024, the district court found that, before bringing this action, Plaintiff had accrued at least three “strikes,” for purposes of 28 U.S.C. § 1915(g), that he was not in imminent danger of serious physical injury, and that he was therefore barred from proceeding *in forma pauperis* while a prisoner. (Text Order entered November 6, 2024.) The district court granted Plaintiff leave to pay the filing fee within 30 days. Plaintiff responded by filing motions to amend his complaint and for reconsideration of the order denying IFP. (ECF Nos. 6-9.) On November 4, 2024, the district court transferred the action to this court.

For the reasons set forth below, the Court directs Plaintiff to file his amended complaint within 30 days of the date of this order and defers addressing his IFP application.

**DISCUSSION**

Under Rule 15 of the Federal Rules of Civil Procedure, a plaintiff has the right to amend the complaint once, without permission of the court, within a certain time frame after service of the complaint. Fed. R. Civ. P. 15(a). The United States District Court for the Eastern District of New York held that Plaintiff’s complaint failed to show that he was in imminent danger of serious physical injury, and Plaintiff moved for leave to file an amended complaint. (ECF 6-9.)

Under Rule 15, because summonses have not issued and service of process on defendants has not been effected, Plaintiff can file an amended complaint once without court order. Moreover, the availability of an exception to Section 1915(g)'s bar on proceeding IFP turns, in part, on the nexus between the claims in the complaint and the asserted danger. The Court therefore defers resolution of Plaintiff's request to reconsider the decision denying IFP until it has reviewed Plaintiff's amended complaint. The Court directs Plaintiff to file his amended complaint within 30 days of the date of this order.

If Plaintiff chooses to file an amended complaint, Plaintiff must provide a short and plain statement explaining what each defendant did or failed to do that violated his rights. **Plaintiff's complaint should be legibly written in handwriting that is large enough to read.** Plaintiff should include:

- a) the names and titles of relevant people;
- b) a description of relevant events, including what each defendant did or failed to do, the approximate date and time of the event, and the general location where the event occurred;
- c) a description of the injuries Plaintiff suffered; and
- d) the relief Plaintiff seeks, such as money damages, injunctive relief, or declaratory relief.

Essentially, Plaintiff's amended complaint should tell the Court: who violated his rights; how, when, and where such violations occurred; and why Plaintiff is entitled to relief. Plaintiff's amended complaint will completely replace, not supplement, the original complaint.

Importantly, the Court notes that "[u]nrelated claims against different defendants belong in different suits . . . ." *Webb v. Maldonado*, No. 13-CV-144 (RNC), 2013 WL 3243135, at \*3 (D. Conn. June 26, 2013). Rule 18 of the Federal Rules of Civil Procedure permits a plaintiff to join as many claims as he has against a particular defendant. *See* Fed. R. Civ. P. 18(a). Rule 20(a)(2)

permits a plaintiff to join multiple defendants in one action only if: (1) a right to relief is asserted against all of the defendants, or the claims arise out of the same transaction, occurrence, or series of transactions, and (2) questions of law or fact are common to all defendants. *See Deskovic v. City of Peekskill*, 673 F. Supp. 2d 154, 167 (S.D.N.Y. 2009). If Plaintiff files an amended complaint, the Court directs him to include only those claims that are properly joined in a single action, which generally means either (1) all of the claims that he has against a single defendant, or (2) claims against different defendants arising out of the same incident.

### CONCLUSION

The Court grants Plaintiff's motions for leave to amend (ECF 8, 9), and Plaintiff is directed to file his amended complaint, which must be legibly handwritten or typed, within 30 days of the date of this order. The Court also grants Plaintiff an opportunity to file a written declaration, within 30 days, showing that the claims in his amended complaint have some nexus or connection to an imminent danger of serious physical injury that he faces. An amended complaint form and declaration form are attached to this order.

If Plaintiff does not file an amended complaint, the Court will address whether his motions to alter or amend the judgment (ECF Nos. 6-7) demonstrate any basis for reconsidering the decision that he is not entitled to proceed IFP.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf.*

*Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: February 28, 2025  
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN  
Chief United States District Judge

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Write the full name of each plaintiff.

\_\_\_\_ CV \_\_\_\_  
(Include case number if one has been assigned)

-against-

**COMPLAINT**  
(Prisoner)

Do you want a jury trial?

☐ Yes ☐ No

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Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

**NOTICE**

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

**I. LEGAL BASIS FOR CLAIM**

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a “*Bivens*” action (against federal defendants).

☐ Violation of my federal constitutional rights

☐ Other: \_\_\_\_\_

**II. PLAINTIFF INFORMATION**

Each plaintiff must provide the following information. Attach additional pages if necessary.

First Name	Middle Initial	Last Name
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State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

Prisoner ID # (if you have previously been in another agency’s custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Current Place of Detention

Institutional Address

County, City	State	Zip Code
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**III. PRISONER STATUS**

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☐ Other: \_\_\_\_\_

**IV. DEFENDANT INFORMATION**

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 2:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 3:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 4:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

## V. STATEMENT OF CLAIM

Place(s) of occurrence: \_\_\_\_\_

Date(s) of occurrence: \_\_\_\_\_

### FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

[illegible]



**INJURIES:**

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

**VI. RELIEF**

State briefly what money damages or other relief you want the court to order.

**VII. PLAINTIFF'S CERTIFICATION AND WARNINGS**

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

Dated	Plaintiff's Signature
First Name	Middle Initial
	Last Name
Prison Address	
County, City	State
	Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: \_\_\_\_\_

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Write the first and last name of each plaintiff or  
petitioner.

Case No. \_\_\_\_\_ CV \_\_\_\_\_

-against-

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Write the first and last name of each defendant or  
respondent.

**DECLARATION**

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Briefly explain above the purpose of the declaration, for example, "in Opposition to Defendant's  
Motion for Summary Judgment," or "in Response to Order to Show Cause."

I, \_\_\_\_\_, declare under penalty of perjury that the  
following facts are true and correct:

In the space below, describe any facts that are relevant to the motion or that respond to a court  
order. You may also refer to and attach any relevant documents.

Executed on (date)		Signature	
Name		Prison Identification # (if incarcerated)	
Address	City	State	Zip Code
Telephone Number (if available)		E-mail Address (if available)	